

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Hannah Sampson	Team: Squad #7	CCRB Case #: 201808305	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 02/15/2018 11:23 PM	Location of Incident: § 87(2)(b) 79th Precinct Stationhouse	Precinct: 79	18 Mo. SOL 8/15/2019	EO SOL 8/15/2019	
Date/Time CV Reported Tue, 10/09/2018 10:19 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 10/09/2018 10:19 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Leo Bonacasa	12994	955762	079 PCT
2. POM Julio Ramos	05241	952144	079 PCT
3. SGT Emile Pratt	04876	935535	079 PCT
4. POM Daniel Mcilrath	23526	963156	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Emile Pratt	Abuse: At § 87(2)(b) in Brooklyn, Sergeant Emile Pratt stopped § 87(2)(b)	
B.POM Leo Bonacasa	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Leo Bonacasa stopped § 87(2)(b)	
C.SGT Emile Pratt	Abuse: Sergeant Emile Pratt entered § 87(2)(b) in Brooklyn.	
D.POM Julio Ramos	Discourtesy: At § 87(2)(b) in Brooklyn, Police Officer Julio Ramos spoke discourteously to § 87(2)(b)	
E.POM Julio Ramos	Abuse: Police Officer Julio Ramos searched § 87(2)(b) in Brooklyn.	
F.POM Julio Ramos	Discourtesy: At the 79th Precinct Stationhouse in Brooklyn, Police Officer Julio Ramos spoke discourteously to § 87(2)(b)	
G.POM Leo Bonacasa	Discourtesy: At the 79th Precinct Stationhouse in Brooklyn, Police Officer Leo Bonacasa spoke discourteously to § 87(2)(b)	
H.POM Daniel Mcilrath	Discourtesy: At the 79th Precinct Stationhouse in Brooklyn, Police Officer Daniel Mcilrath spoke discourteously to § 87(2)(b)	

### Case Summary

On October 9, 2018, § 87(2)(b) filed this complaint with the CCRB via telephone.

On February 15, 2018, at 11:23 p.m., § 87(2)(b) anonymously called 911 to report a burglary in progress at his apartment, located at § 87(2)(b) in Brooklyn. Officers from the 79<sup>th</sup> Precinct, including Sgt. Emile Pratt, PO Leo Bonacasa, and PO Julio Ramos (who was subsequently transferred to PSA 1), responded to the job. Sgt. Pratt and PO Bonacasa stopped § 87(2)(b) in the hallway outside of his apartment (**Allegations A and B: Abuse of Authority**, § 87(2)(g)). After speaking to § 87(2)(b) officers, led by Sgt. Pratt, entered his apartment (**Allegation C: Abuse of Authority**, § 87(2)(g)). While in § 87(2)(b)'s apartment, PO Ramos stated, "Oh shit" (**Allegation D: Discourtesy**, § 87(2)(g)). The officers ran § 87(2)(b)'s license and found that he had an active arrest warrant. § 87(2)(b) was arrested and charged with § 87(2)(b).

§ 87(2)(b). After § 87(2)(b) was removed from the residence, PO Ramos searched areas of the apartment (**Allegation E: Abuse of Authority**, § 87(2)(g)).

While PO Ramos escorted § 87(2)(b) into the 79<sup>th</sup> Precinct Stationhouse, § 87(2)(b) complained that he needed to use a restroom and said that he would urinate on the officers. PO Ramos responded, "That's some R. Kelly shit" (**Allegation F: Discourtesy**, § 87(2)(g)). As PO Bonacasa counted § 87(2)(b)'s money at the front desk, § 87(2)(b) told PO Bonacasa that he had \$3,000 on him when he was arrested. PO Bonacasa responded, "Bullshit" (**Allegation G: Discourtesy**, § 87(2)(g)). As § 87(2)(b) was lodged in the holding cells, he accused the officers of breaking his watch. PO Daniel McIlrath, also of the 79<sup>th</sup> Precinct, replied, "You broke that shit?" (**Allegation H: Discourtesy**, § 87(2)(g)). There is BWC footage of this incident; the full videos are linked to Board Reviews 01, 02, 03, and 04.

### Findings and Recommendations

**Allegation A – Abuse of Authority: At § 87(2)(b) in Brooklyn, Sergeant Emile Pratt stopped § 87(2)(b)**

**Allegation B – Abuse of Authority: At § 87(2)(b) in Brooklyn, Police Officer Leo Bonacasa stopped § 87(2)(b)**

**Allegation C – Abuse of Authority: Sergeant Emile Pratt entered § 87(2)(b) in Brooklyn.**

It is undisputed that § 87(2)(b) anonymously called 911 to report a burglary in progress at his apartment and it is undisputed that that officers, led by Sgt. Pratt, entered his apartment. Because Sgt. Pratt was the first to enter § 87(2)(b)'s apartment and was the supervisor on scene, the allegation that officers entered § 87(2)(b)'s residence was pled solely against him.

Event § 87(2)(b) [BR 09] shows that at 11:23 p.m., § 87(2)(b) called 911 to report that people were threatening him and breaking into his gate at § 87(2)(b). § 87(2)(b) did not provide a description of the perpetrator. § 87(2)(b) gave his full name to the operator but then refused to provide his callback number. BWC footage recorded by PO Ramos (discussed below) shows that Sgt. Pratt, PO Bonacasa, PO Ramos, were on scene at 11:26 p.m.

§ 87(2)(b) was interviewed at the CCRB on October 12, 2018 [BR 05]. He stated that he anonymously called 911 to report that there were individuals selling drugs and sleeping under

the staircase in his building. Approximately one hour later, officers responded to the building. § 87(2)(b) believed that two male officers dressed in plainclothes were the first to arrive. However, he could not describe either officer further and the investigation determined that only uniformed officers responded to this job. § 87(2)(b) stated that he opened the front exterior door of the building to let the officers inside and then turned to walk back to his apartment. While still in the hallway, § 87(2)(b) asked the officers why they were there. An officer responded that they were advised of a “disturbance” and said there was a complaint about someone sleeping under the staircase and of people selling drugs in the building. § 87(2)(b) said “alright” and continued walking to his apartment. As § 87(2)(b) walked away, an officer asked him for his ID. § 87(2)(b) asked why they needed his ID when he was the one that opened the door for them. The officer again asked for his ID so § 87(2)(b) told the officers to wait in the hallway while he retrieved it from his apartment. § 87(2)(b) entered his apartment and then pulled the door shut behind him. Although the door was closed, it was not locked. § 87(2)(b) was in his apartment for approximately five seconds before he turned around and saw 10 to 17 officers standing in his studio apartment.

PO Ramos was the first officer to activate his BWC at 11:26 p.m. [BR 10]. His footage does not show the officers’ initial arrival to the building but begins while the officers are speaking to § 87(2)(b) in the vestibule of his building. The footage shows that § 87(2)(b) turns to walk away from the officers but PO Bonacasa pulls him back by his arm. Because Sgt. Pratt was the supervisor on scene and was present when PO Bonacasa stopped § 87(2)(b) the allegation was pled against PO Bonacasa and Sgt. Pratt. After a few seconds, § 87(2)(b) walks to his apartment with the officers, opens the door to his apartment, and enters. He does not close the door behind him. The officers, led by Sgt. Pratt, follow him inside. There is no audio in the footage until after the officers enter the apartment. Later in the footage [BR 26], Sgt. Pratt informs PO Bonacasa that because the job came from an anonymous caller, PO Bonacasa needed some other action that gave him reasonable suspicion to stop § 87(2)(b). PO Bonacasa is then heard explaining to Sgt. Pratt that when they encountered § 87(2)(b) they asked him what apartment he lived in and asked if he called the police. § 87(2)(b) allegedly responded, “No, I live in § 87(2)(b).” The officers then radioed Central and the dispatcher confirmed that the apartment named in the 911 call was Apt. § 87(2)(b). § 87(2)(b) then allegedly told the officers, “Alright, I’ll get my ID.” He then went to his apartment to get his ID to show to the officers. PO Ramos added, “Yeah, he let us in.”

Sgt. Pratt was interviewed at the CCRB on March 19, 2019 [BR 06]. He had no independent recollection of this incident. He was shown the Event referenced above and said that it did not assist in his recollection of the incident. He was then shown § 87(2)(b)’s arrest report. Upon reviewing the arrest report, Sgt. Pratt stated that after receiving a 911 call from § 87(2)(b) for a burglary in progress at his apartment, the officers entered the apartment to investigate the alleged burglary. Sgt. Pratt could not recall any other factors that led to his decision to enter the residence. After discussing that the job came over as an anonymous caller, Sgt. Pratt added that they knocked on doors until they found someone that was the source of/involved in the call and that when the officers reached § 87(2)(b)’s apartment, they spoke with him at his door. Sgt. Pratt had no recollection of what was discussed with § 87(2)(b) at his door and did not recall if it was determined through this conversation that § 87(2)(b) was the individual that called 911. He also did not recall if § 87(2)(b) referenced a burglary or if he expressed any knowledge of the 911 call. Sgt. Pratt did not recall which other apartment doors they knocked on or if they spoke to any civilians aside from § 87(2)(b). Sgt. Pratt was shown

the BWC footage recorded by PO Ramos [BR 10] which shows that the officers first encountered § 87(2)(b) in the vestibule of his building, rather than at his apartment door as he described. Upon viewing the footage, Sgt. Pratt said that he did not have any independent recollection of what was discussed in the hallway or what led up to their entry into the residence. Based on the questions Sgt. Pratt heard PO Ramos asking once they entered § 87(2)(b)'s apartment (such as asking if § 87(2)(b) receives mail at the apartment or if he has any mail with his name on it), Sgt. Pratt believed § 87(2)(b) could have been considered a suspect of the alleged burglary, but that they ultimately determined § 87(2)(b) resides at the apartment.

PO Bonacasa was interviewed at the CCRB on February 7, 2019 [BR 07]. He stated that the officers received a call for a burglary in progress at § 87(2)(b) in Brooklyn. The 911 call specified the apartment number, but PO Bonacasa did not recall if he received any other information in the initial run. Upon reviewing his body worn camera footage (prior to his CCRB interview), PO Bonacasa was reminded that the 911 call was anonymous. He did not recall if any identifying information was provided about the caller or if any description of the suspect was provided. Because the officers were nearby when they received the job, they arrived at the location within two minutes. Through an exterior window in the front door of the building, PO Bonacasa observed § 87(2)(b) standing in front of Apt. § 87(2)(b), which was the apartment named in the 911 call. Aside from § 87(2)(b) there was no one else in the hallway. PO Bonacasa believed that the front door to the building was unlocked. The officers entered the building and asked if § 87(2)(b) lived in Apt. § 87(2)(b). § 87(2)(b) said, "Yes, this is my apartment." PO Bonacasa asked § 87(2)(b) if he had any identification to prove it was his apartment and § 87(2)(b) responded that his ID was inside the apartment. § 87(2)(b) did not mention anything about a burglary in the apartment or about calling 911. However, while still in the hallway with § 87(2)(b) PO Bonacasa explained to § 87(2)(b) that they received a call for a burglary at the building. PO Bonacasa did not notice any signs of breaking and entering at the apartment door because he was focused on his conversation with § 87(2)(b). § 87(2)(b) opened the apartment door and entered to retrieve his wallet. In the meantime, PO Bonacasa stood in the threshold of § 87(2)(b)'s apartment door to maintain an open line of conversation with him. § 87(2)(b) did not attempt to close the apartment door behind him and did not tell the officers not to come in. From the threshold of the doorway, PO Bonacasa observed a glass crack pipe with burnt residue in plain view on top of a dresser to the right of the door, which PO Bonacasa estimated to be within an arm's length away. After observing the pipe, PO Bonacasa stepped over the threshold into the apartment to retrieve it and to ensure that § 87(2)(b)'s apartment could be locked and secured.

PO Ramos was interviewed at the CCRB on March 29, 2019 [BR 08]. He also stated that the officers received a radio run for a burglary in progress at § 87(2)(b). An apartment number was provided in the radio run but PO Ramos did not recall what number was given at the time of this interview, aside from it being a first-floor apartment. He believed a description of the suspect was provided over the radio but did not recall if any other information was provided. PO Ramos was consistent with PO Bonacasa in that upon arriving at the building, the officers observed § 87(2)(b) in front of the apartment specified in the radio run. PO Ramos did not recall what § 87(2)(b) was doing in front of the door, but believed he was "just standing" in front of the apartment. At that time, the officers did not have any impression of whether § 87(2)(b) was a victim or a suspect of the alleged burglary. The officers asked § 87(2)(b) why he was there, who he was, if he lived at the apartment, and asked for basic pedigree information. During this conversation, § 87(2)(b) told the officers that he was the one that called 911 and

said that he lives in the apartment in question. § 87(2)(b) then told the officers to come inside so that he could provide them with his ID. The officers asked § 87(2)(b) if the address on his ID matched the building address and § 87(2)(b) confirmed that it did. § 87(2)(b) did not tell the officers to wait in the hallway and did not object to them entering the apartment in any way. In addition to § 87(2)(b) granting the officers verbal consent to enter, PO Ramos added that because the officers had not yet verified § 87(2)(b)'s identity, they also needed to ensure that everything was okay inside the apartment in the event there was a burglary. PO Ramos did not notice any signs of a burglary at § 87(2)(b)'s door because § 87(2)(b) was standing in front of the door and their exchange in the hallway was brief.

According to People v. Cantor, 36 N.Y.2d 106 (1975) [BR 13], before a person may be stopped in a public place a police officer must have reasonable suspicion that such person is committing, has committed, or is about to commit a crime. Reasonable suspicion is the quantum of knowledge to induce an ordinarily prudent and cautious man under the circumstances to believe criminal activity is at hand. To justify such an intrusion, the police officer must indicate specific and articulable facts which, along with any logical deductions, reasonably prompted that intrusion.

People v. Watts, 43 A.D.3d 256 (App. Div. 2007) [BR 16], states that in regards an anonymous call of a burglary, reasonable suspicion exists if police observations provide sufficient corroboration of the anonymous call to render it “reliable in its assertion of illegality, not just in its tendency to identify a determinate person.”

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

**Allegation E – Abuse of Authority: Police Officer Julio Ramos searched § 87(2)(b) in Brooklyn.**

BWC footage from this incident shows that after § 87(2)(b) was removed from the apartment, PO Ramos lifted § 87(2)(b)'s mattress, performed a visual scan of the kitchen, searched through items on § 87(2)(b)'s dresser, and opened the top drawer in the dresser [BRs 11 and 12]. It is undisputed that the officers did not possess a search warrant for § 87(2)(b)'s residence.

As noted, § 87(2)(b) was not present when PO Ramos searched the apartment.

According to § 87(2)(b)'s arrest report prepared by PO Bonacasa [BR 14], § 87(2)(b) was observed in possession of a crack pipe containing residue in plain view and a computer check revealed that § 87(2)(b) had an open warrant. § 87(2)(b) was also found to be in possession of a small quantity of marijuana which was recovered during the search incident to his arrest. § 87(2)(b) was charged with § 87(2)(b)

As mentioned above, PO Bonacasa stated that he observed a glass crack pipe on top of § 87(2)(b)'s dresser. PO Bonacasa did not recall observing any other contraband or drugs in plain view in the apartment and did not recall anything else in the apartment that raised his concerns in any way. After § 87(2)(b) was removed from the apartment, PO Ramos walked over to § 87(2)(b)'s windows, located at the end of § 87(2)(b)'s bed, and ensured that they were locked. PO Bonacasa remained at the front door. PO Bonacasa did not recall observing PO Ramos lift a mattress of any kind, did not recall him entering § 87(2)(b)'s kitchen, and did not recall him opening any drawer in the residence. After being shown BWC footage from the incident, PO Bonacasa stated that he was not aware of anything suspicious about the bed and could not see what PO Ramos did once he lifted the mattress. He also stated that he did not have any concern about the contents of the dresser and did not recall § 87(2)(b) referencing the dresser in any way.

PO Ramos stated that he observed various forms of drugs scattered on top of § 87(2)(b)'s dresser and observed numerous possible weapons (including swords and bats) in the apartment, which created a safety hazard. The bat was located to PO Ramos's left of the front door and one of the swords was hanging exposed near the door. PO Ramos could not recall what specific drugs he observed on the dresser and did not notice or become aware of drugs elsewhere in the apartment. Aside from the drugs and weapons, he did not believe there was nothing else suspicious or concerning about the residence. Given the burglary call and the possibility that the suspect was still inside the apartment, PO Ramos conducted a visual scan of the kitchen to ensure that no one else was present. PO Ramos did not know when he performed the sweep or if he did so immediately after entering the apartment. Aside from the protective sweep, PO Ramos did not believe any other search was performed inside the residence. He "did not think" that he opened any drawers in the apartment and did not recall if he lifted a mattress in the residence; however, PO Ramos added that he "did not think he would have" lifted a mattress. PO Ramos denied that he moved through any items on § 87(2)(b)'s dresser and believed that PO Bonacasa was the officer that confiscated the drugs.

PO Ramos was shown the two BWC videos referenced above. He stated that he lifted § 87(2)(b)'s mattress because there were drugs and weapons "everywhere" and said that there were weapons in the space between § 87(2)(b)'s bed and the window. PO Ramos did not recall what specific weapons he observed there. However, in the BWC footage, he is heard saying, "He has a golf club over here too. Dude was ready for something." PO Bonacasa's BWC footage also shows PO Bonacasa holding up what appears to be an iron dagger/sword while standing next to § 87(2)(b)'s dresser. Aside from there being drugs and weapons throughout the apartment, PO Ramos stated there was no other specific reason as to why he lifted the mattress. PO Ramos is then seen walking into the kitchen. He acknowledged that he appeared to be conducting a visual scan of the kitchen but did not know what was happening at that moment in time and said that he "walked in and then walked out." PO Ramos stated that he looked through the items on § 87(2)(b)'s dresser (one of which was an ashtray) because there were "drugs everywhere" and

they needed to ensure that they had all the drugs for confiscation. While viewing the footage, PO Ramos pointed out a cylindrical item in view on top of § 87(2)(b)'s dresser, which he believed was a blunt. The investigation determined that this object was the crack pipe referenced in § 87(2)(b)'s arrest report. PO Ramos initially said that he had “no idea why” he opened the drawer to § 87(2)(b)'s dresser. He then said that once they found drugs in the apartment, he believed that there were drugs everywhere in the residence. He did not recall § 87(2)(b) referencing the dresser or the bed while he was in the apartment. No efforts were made to obtain a search warrant for the residence. As the officers leave the apartment, PO Ramos is heard saying that § 87(2)(b) had “plenty of weapons everywhere.” PO Bonacasa responds that § 87(2)(b) was “ready for war.”

According to People v. Knapp, 52 N.Y.2d 689 (1981) [BR 15], officers may conduct a broader search of an arrestee's home that includes areas beyond the arrestee's immediate grabbable area when urgent events make it impossible to obtain a warrant in sufficient time to preserve evidence or contraband threatened with removal or destruction.

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Allegation D – Discourtesy: At § 87(2)(b) in Brooklyn, Police Officer Julio Ramos spoke discourteously to § 87(2)(b)**

**Allegation F – Discourtesy: At the 79th Precinct Stationhouse in Brooklyn, Police Officer Julio Ramos spoke discourteously to § 87(2)(b)**

**Allegation G – Discourtesy: At the 79th Precinct Stationhouse in Brooklyn, Police Officer Leo Bonacasa spoke discourteously to § 87(2)(b)**

**Allegation H – Discourtesy: At the 79th Precinct Stationhouse in Brooklyn, Police Officer Daniel McIlrath spoke discourteously to § 87(2)(b)**

§ 87(2)(b) did not allege that any officer used profanity towards him. However, PO Ramos's BWC footage shows that while standing in § 87(2)(b)'s apartment, PO Ramos says, “Oh shit” [BR 17]. The footage also shows that later, as PO Ramos escorts § 87(2)(b) into the stationhouse, § 87(2)(b) tells him that he needs to use the restroom and then says that he will urinate on the officers. PO Ramos responds, “That's some R. Kelly shit” [BR 18]. Then, while in front of the desk, § 87(2)(b) claims that he had \$3,000 on his person at the time of his arrest. PO Bonacasa responds, “Bullshit” [BR 19]. Lastly, as § 87(2)(b) is lodged in the holding cells, he accuses the officers of breaking his watch. An officer, identified by the investigation as PO McIlrath, responds, “You broke that shit?” [BR 20].

PO Ramos could not determine if he was the individual heard stating “Oh shit” in § 87(2)(b)'s apartment. However, given the voice similarity and the fact that this comment was captured by PO Ramos's own BWC, the investigation determined that he is the officer that made the comment. PO Ramos and PO Bonacasa acknowledged that they said, “That's some R. Kelly shit” and “Bullshit,” respectively. Both officers stated that the comments were intended as a joke.

PO McIlrath was interviewed at the CCRB on April 16, 2019 [BR 21]. He had no independent recollection of § 87(2)(b). He was shown a portion of BWC footage which captured his interaction with § 87(2)(b) but denied that it refreshed his recollection of this incident. In the footage, § 87(2)(b) complains that the officers broke his watch. Off screen, an officer comments, “You broke that shit?” PO McIlrath could not identify who made the comment, could not determine if it was his voice, and did not recall making the statement. Aside from PO Ramos, who was recording the incident, PO McIlrath did not know of any other officers that would have been present at the time of this exchange. Although PO McIlrath could not identify his voice in the footage, the investigation determined, based on voice similarity and the fact that no other officers aside from PO Ramos and PO McIlrath appear to be present at the time, that he was the officer that made the discourteous remark.

NYPD Patrol Guide Procedure 203-09 states that officers are to interact with members of the public in a professional manner [BR 22].

§ 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- § 87(2)(b) has been a party to one prior CCRB complaint and has been named as a victim in three prior allegations [BR 23]:
  - § 87(2)(b)
- Sgt. Pratt has been a member-of-service for 14 years and has been a subject in five other CCRB complaints and nine allegations, none of which were substantiated. § 87(2)(g)
- PO Ramos has been a member-of-service for seven years and has been a subject in 13 other complaints and 28 allegations (eight of which have not yet received dispositions from the Board). Of the allegations that the Board has reviewed, none have been substantiated. § 87(2)(g)
- PO Bonacasa has been a member-of-service for five years and has been a subject in two other complaints and seven allegations (five of which have not yet received dispositions from the Board). The remaining two allegations were not substantiated. § 87(2)(g)
- PO McIlrath has been a member-of-service for two years and has been a subject in two other CCRB complaints and five allegations (four of which have not yet received dispositions). The remaining allegation was not substantiated.

#### **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- As of April 30, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint [BR 24].



- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
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Squad No.:    \_\_\_7\_\_\_

Investigator:    \_\_\_\_\_  
                                Signature                                  Print Title & Name                                  Date

Squad Leader:    \_\_\_\_\_  
                                Signature                                  Print Title & Name                                  Date

Reviewer:        \_\_\_\_\_  
                                Signature                                  Print Title & Name                                  Date